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Attorney for the Plaintiffs

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 (SAN FRANCISCO DIVISION)

KEN WALTERS; DON DOSER, in their
 respective capacities as Trustees of the
 OPERATING ENGINEERS HEALTH AND
 WELFARE TRUST FUND FOR
 NORTHERN CALIFORNIA et al.,

Plaintiffs,

vs.

FORSGREN ASSOCIATES, INC., et al.,

Defendants.

Case No.: C 04-4709 SC

**STIPULATION TO DISMISS WITH
 PREJUDICE AS TO TRAVELERS
 CASUALTY AND SURETY COMPANY
 OF AMERICA; ORDER THEREON**

Plaintiffs GIL CROSTHWAITE AND JOHN BONILLA, in their respective capacities as
 Trustees of the OPERATING ENGINEERS HEALTH AND WELFARE TRUST FUND FOR
 NORTHERN CALIFORNIA; PENSION TRUST FUND FOR OPERATING ENGINEERS;
 PENSIONED OPERATING ENGINEERS HEALTH AND WELFARE FUND; OPERATING
 ENGINEERS AND PARTICIPATING EMPLOYERS PRE-APPRENTICESHIP,
 APPRENTICE AND JOURNEYMEN AFFIRMATIVE ACTION TRAINING FUND;
 OPERATING ENGINEERS VACATION AND HOLIDAY PLAN; OPERATING
 ENGINEERS CONTRACT ADMINISTRATION TRUST FUND; OPERATING ENGINEERS

STIPULATION TO DISMISS WITH PREJUDICE; ORDER THEREON;
 Case No.: C 04-4709 SC

1 MARKET PRESERVATION TRUST FUND; OPERATING ENGINEERS INDUSTRY
2 STABILIZATION TRUST FUND; BUSINESS DEVELOPMENT TRUST FUND; and HEAVY
3 AND HIGHWAY COMMITTEE ("Plaintiffs") and Defendant TRAVELERS CASUALTY
4 AND SURETY COMPANY OF AMERICA ("SURETY") stipulate and agree to the following:

- 5 1. Plaintiffs and SURETY executed a SETTLEMENT AGREEMENT AND
6 ASSIGNMENT in order to resolve the above-captioned proceeding.
- 7 2. In light of the SETTLEMENT AGREEMENT AND ASSIGNMENT, the above-
8 captioned matter is dismissed with prejudice pursuant to Federal Rule of Procedure
9 41(a)(1) as to SURETY.
- 10 3. Each party to this Stipulation will bear their own attorneys' fees and costs relating to
11 this proceeding with respect to the other party to this Stipulation.
- 12 4. The Court will retain jurisdiction over the above-captioned proceeding to enforce the
13 terms of the SETTLEMENT AGREEMENT AND ASSIGNMENT referenced in
14 paragraph 1 above.

15 RESPECTFULLY SUBMITTED.

16 DATED: 6/28/05

17 OPERATING ENGINEERS LOCAL UNION
18 NO. 3 TRUST FUNDS - MULTI-SERVICES

19 By: 

20 TRACY L. MAINGUY
21 ATTORNEY FOR PLAINTIFFS

22 DATED: 06/28/05

23 By: 

24 ROGER MASON
25 ATTORNEY FOR DEFENDANT
TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA

1 **ORDER**

2 Based upon the above-stated stipulation for dismissal of action with prejudice and
3 pursuant to Federal Rule of Civil Procedure 41(a)(1), this action is dismissed with prejudice as to
4 as to Defendant TRAVELERS CAUSALTY AND SURETY COMPANY OF AMERICA only.
5 The Court retains jurisdiction to enforce the terms of the SETTLEMENT AGREEMENT AND
6 ASSIGNMENT executed by the Plaintiffs and Defendant TRAVELERS CASUALTY AND
7 SURETY COMPANY OF AMERICA.

8 Dated:

9 _____
10 SAMUEL CONTI
11 HON. UNITED STATES DISTRICT COURT JUDGE
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